

Notice of Allowability

Application No.

09/605,987

Examiner

Gregory J. Vaughn

Applicant(s)

KOPPEL ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 10/25/2004.
2. ☒ The allowed claim(s) is/are 1-38,40-44,46,47,57 and 58.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

REASONS FOR ALLOWANCE

Application History

1. This action is responsive to the after final amendment filed 10/25/2004.
2. Applicant has amended claims 1, 8, 9, 24, 40, 43, 44, 46 and 58.
3. Applicant has cancelled claims 39 and 45.
4. Claims 48-56 are cancelled by an examiner's amendment (see below).
5. Claims 1-38, 40-44, 46-47 and 57-58 are pending in the case, claims 1, 8, 9, 24 and 46 are independent claims.
6. The rejection of claims 1-6, 25-38, 40-42, 44 and 57-58 made under 35 USC 102(b) as being anticipated by Ryan et al. US Patent 6,421,675 has been withdrawn as necessitated by amendment.
7. The rejection of claims 7 and 10-23 made under 35 USC 103(a) as being unpatentable over Ryan in view of Satyavolu et al. US Patent 6,517,587 has been withdrawn as necessitated by amendment.
8. The rejection of claim 43 made under 35 USC 103(a) as being unpatentable over Ryan in view of Borman et al. US Patent 5,890,172 has been withdrawn as necessitated by amendment.
9. The objection to claims 8, 9, 24 and 45-47 as being dependent upon rejected base claims, (but would be allowable if rewritten in independent form

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including all of the limitations of the base claim and any intervening claims)
has been withdrawn as necessitated by amendment.

Examiners Amendment

10. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
11. Authorization for this examiner's amendment was given in a telephone interview with Attorney of Record Allan C. Entis (Reg. No. 52,866) on 11/17/2004.
12. The application has been amended as follows: Claims 48-56 are cancelled.

Reasons For Allowance

13. Applicant has amended claim 1 to include all the limitations of allowable claim 45, and all of the limitations of the intervening claims.
14. Applicant has amended allowable claims 8, 9, 24 and 46, which are now rewritten in independent form, and include all of the limitations of the base claim and any intervening claims.

Conclusion

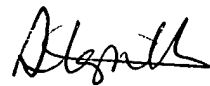
15. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Vaughn whose telephone number is (571) 272-4131. The examiner can normally be reached Monday to Friday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached at (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory J. Vaughn
November 17, 2004



STEPHEN S. HONG
PRIMARY EXAMINER